

National Survey of the States: Policies and Practices Regarding Drug-Using Pregnant Women

ABSTRACT

Objectives. This study assessed the impact of national policy shifts on state policies and practices regarding substance-using mothers.

Methods. A 1995 telephone survey of substance abuse and child protective services directors in all 50 states and the District of Columbia was compared with a similar 1992 survey.

Results. There have been significant increases in state interventions for drug-using pregnant women (e.g., criminal prosecution, toxicology testing of women and neonates). Federal resources for treatment and oversight are being replaced by state control of reduced funds for treatment.

Conclusions. The earlier policy of expanding treatment for addicted women is being replaced by reduction of services and increased state intervention. (*Am J Public Health.* 1998;88:117-119)

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Introduction

In 1992, we conducted a national survey of state directors of substance abuse services to determine their policies and practices regarding the controversial issues of criminal prosecution, charges of child abuse, and treatment for pregnant drug-using women.¹ The responses revealed a tension between interdiction and treatment efforts, as well as a lack of coordination with other public health initiatives directed at reproductive and infant health.

This first survey followed efforts by the federal government to improve services for women. The Substance Abuse Block Grant has been the major federal discretionary funding source supporting state-based drug and alcohol treatment. In 1988, states were required to increase the allocation "set aside" for treatment of pregnant women and women with children from 5% to 10%. Congress had also mandated that pregnant women receive priority enrollment in treatment, specific services such as prenatal care and child care, and established specialized demonstration programs for drug-using women across the country.² These efforts represented a public health approach to the problem and held out the hope of improved access and availability of substance abuse treatment for pregnant and parenting drug-addicted women.

The congressional elections of 1994, ensuing budget cuts, and the devolution of budgetary and regulatory authority to the states all had implications for drug users and treatment. Medicaid managed care also has had consequences for women's choices regarding drug treatment. Waivers from previously universal federal regulations permitted states to waive freedom-of-choice provisions that had been intended to safeguard Medicaid enrollees' choice of providers or permitted them to mandate enrollment in managed care plans while altering the benefit package they offered.³ This paper reports on a second, repeat survey conducted in 1995 to assess the impact of these subsequent changes on policies and programs for pregnant substance-using women.

Methods

From June to August 1995, structured telephone interviews were conducted with the directors of substance abuse and child protective services in all 50 states and the District of Columbia. These individuals were asked closed-ended questions about policies and services relating to drug-using mothers. If a director of either child protective or substance abuse services reported that a state engaged in a practice or policy, it was categorized as a positive result.

Results are reported as percentages of those who answered each question. The survey was designed to compare results from 1995 with the 1992 findings. In addition, open-ended questions were added about policy changes regarding Medicaid managed care and welfare reform and their effect on service provision. In order to compare the 1995 results with those of the earlier study, we considered each pair of state responses to be nonindependent and used the McNemar chi-square test to assess significant changes at the $P < .05$ level.

Results

Table 1 presents the quantitative results regarding policies and practices. Respondents from 34 states reported that cases of criminal prosecution had transpired in their states, 12 more states than had so reported in 1992. While toxicology testing of both pregnant women and infants had increased somewhat, reporting of positive toxicology results had increased significantly and was

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widespread. In 1995, 8 states required mandatory reporting of positive maternal toxicology results to child protective authorities (vs 1 in 1992), and almost two thirds of states described this to be actual practice. Ten states mandated that positive newborn toxicology results be reported to the criminal justice system (significantly more than the 3 that did so in 1992), and almost two thirds of states reported positive newborn toxicology results to the child protective services or the Department of Health. Approximately a quarter of the states reported that pregnant drug users and mothers were mandated to treatment.

Three major themes emerged from the open-ended questions regarding managed care and welfare. First, respondents described an initial trend toward increased services for women, especially pregnant women and women with children. Eleven substance abuse services directors reported a previous expansion of their programs for women, 17 reported program expansions for women with children, and 25 either had expanded their programs for or had begun accepting pregnant women. Two child protective services directors also reported that pregnant women were able to gain access to services and programs more easily.

One substance abuse services director reported that more judges were mandating treatment interventions on a case-by-case basis. Some directors stated that the increased treatment for women necessitated reduced services for others. Several state directors reported that pregnant and parenting women and individuals who were HIV positive were replacing prisoners as the highest priority for limited drug treatment.

Second, at the same time services available to substance-using pregnant and parenting women expanded, there was a dramatic shift toward Medicaid managed care in the provision of these services. In 1995, most of the states were in the process of converting to Medicaid managed care. Twenty-five of the states had implemented waivers, and waivers were pending in another 22 states. A recurring theme among those substance abuse services directors who were familiar with their states' waivers was that the adoption of Medicaid managed care had led to less freedom of choice in selecting drug treatment programs. Four substance abuse services directors reported that the waivers would reduce funding and eligibility for programs for women.

Many of the Medicaid waivers were linked with eligibility for other services. Examples include states that mandated that recipients of Aid to Families with Dependent Children participate in managed care

TABLE 1—Survey of Substance Abuse and Child Protective Services Directors from the 50 States and the District of Columbia: Comparison of Policies and Practices over Time

Policies and Practices	1992, %	1995, %	P
Criminal prosecution of drug-using women	45	71	.0184
Positive maternal toxicology defined as abuse/neglect by:			
Law	6	6	1.0000
Agency	16	15	.7623
Positive neonatal toxicology defined as abuse/neglect by:			
Law	14	35	.0039
Agency	33	63	.0003
Mandatory drug or alcohol testing of:			
Pregnant women	2	12	.0588
Neonates	0	7	.0833
Mandatory reporting of positive toxicology in pregnant drug users to:			
Child protective services	2	17	.0143
Department of Health	4	7	.5657
Criminal justice system	0	5	.1573
Mandatory reporting of positive toxicology in neonates to:			
Child protective services	31	43	.2509
Department of Health	6	16	.3173
Criminal justice system	6	21	.0339
Practice of reporting positive toxicology results for:			
Pregnant women	13	61	.0000
Neonates	35	65	.0001
Mandatory treatment for:			
Pregnant women	... ^a	24	...
Women with children	... ^a	26	...

^aNot asked in 1992.

and the three states that required women to remain in drug treatment in order to receive social security and Medicaid. Yet, 33 child protective services directors were completely unfamiliar with Medicaid waivers, and 7 could not explain how the waivers were related to changing welfare policies (so-called "welfare reform"). Substance abuse services directors in four states reported that they were unaware of interrelationships with welfare reform in the Medicaid waivers. Some explained that even when drug treatment was court ordered, managed care may not have covered the mandated treatment.

Third, directors reported conflicting trends in funding and oversight. Federal funding for substance abuse services had initially increased, largely through block grants, in 18 of the states. Ten substance abuse services directors described heightened federally imposed standards of care in conjunction with increased funding. Seventeen child protective services directors also reported increases in funding, and 11 reported more rigorous standards of care. On the other hand, respondents described the more recent development to be local control of services accompanied by reduced local

funding. Fourteen state substance abuse services directors reported recently increased local control, 12 reported recent reductions in local funding, and 5 reported the two simultaneously. Six child protective services directors reported decreased funding, and 15 reported increased local control of services.

Discussion

There is generally a lag between development of policy and the resulting delivery of programmatic services. This 1995 survey captures an interesting moment of collision between the policies and programs for drug-using women that had been designed a few years earlier and the ensuing national policy shift toward decreased federal oversight and local control of reduced budgets.

The first set of policies and programs can be broadly characterized as therapeutic, geared toward sustaining mothers and children together. Their implementation followed revelations that drug treatment programs had previously excluded pregnant women and had failed to address a variety of gender-related concerns, including responsibility for children.^{4,5} Thus, the

majority of the substance abuse services directors reported that their states had begun or expanded treatment for pregnant women and mothers. Child protective services directors described an emphasis on family preservation and heightened standards of care. Both trends had resulted from increased federal funding and federally imposed standards of care.

Then came the national move to limit the role of the federal government and to devolve responsibilities to the states, both through reduction of federal spending on services and through limitations on federal regulation and oversight. More than a quarter of substance abuse services directors and almost one third of child protective services directors reported recently increased local control and concurrent reductions in local funding.

As part of the national drive toward cost containment and local control, the majority of the states were in the midst of conversion to Medicaid managed care. While certain substance abuse services directors reported that these waivers have reduced funding and eligibility for women, most did not yet have operational experience. The majority of child protective services directors were unfamiliar with the waivers and the possible impact of Medicaid managed care on their work.

The intersection between Medicaid managed care and state intervention creates a realm of uncertainties. What happens to a woman mandated to treatment if her managed care provider will not cover the treatment? Indeed, what will happen to women mandated to care if care is not available because of funding cuts? This survey captured a moment when both the old and the new forces were operating simultaneously. The developing trend, however, according to these state directors, was in the direction of reduced services with competition between different needy groups for the diminished resources. These results are sobering. They document that, a few years ago, there had indeed been a policy shift toward expanding and improving treatment for addicted mothers and that this brief moment has ended. On the level of both policy and practice, this survey reveals significant increases between 1992 and 1995 in state interventions for pregnant women who use drugs. This was true in both the criminal justice and the child protective service domains, with a significant increase in cases of criminal prosecution as well as of mandatory testing, reporting, and treatment.

Many have speculated that the purpose of policies that focus on individual behavior is to divert attention from deteriorating social circumstances. In this instance, we

see the juxtaposition of reduced standards and resources with increases in testing, reporting, criminal prosecution, and mandatory treatment of the women who need the resources. □

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